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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,405	04/12/2004	Syed R. Iqbal	1139-026	2888

25215 7590 04/11/2007  
DOBRUSIN & THENNISCH PC  
29 W LAWRENCE ST  
SUITE 210  
PONTIAC, MI 48342

EXAMINER
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PHAN, THIEM D

ART UNIT	PAPER NUMBER
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3729

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/11/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/822,405

Applicant(s)

IQBAL ET AL.

Examiner

Tim Phan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 January 2007.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) 1-23 and 28-46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 24-27 and 47-50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 12/02/04 & 1/30/07.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

1. The amendment filed on 1/30/07 has been fully considered and made of record.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 24-27 and 47-50 are rejected under 35 U.S.C. 102(b) as being anticipated by Inoue et al (US 5,450,894).

**With regard to claim 24**, Inoue et al teach a process of controlling air flow control though a car seat (Figs. 1, 83 & 84), comprising:

- drawing ambient air through a seating surface (Fig. 1, 60) of a transportation vehicle seat (Fig. 1, 50) including the surrounding area into a mixing region (Fig. 1, area of 64) of the seat;
- mixing the drawn ambient air with a cooled fluid by evaporator (Fig. 1, 78) provided to the mixing region; and
- removing the resulting mixture from the mixing region through intermediate duct (Fig. 1,

66).

**With regard to claim 25**, Inoue et al teach that the step of providing cooled fluid through the use of a thermoelectric device or evaporator (Fig. 1, 78).

**With regard to claim 26**, Inoue et al teach that the pressure in the mixing region (Fig. 1, area of 74, 78, 82 & 80) can be maintained below or above the ambient pressure so that substantially all of the resulting mixture does not pass through the seating surface (Fig. 1, 50) immediately.

**With regard to claim 27**, Inoue et al teach that the cooled fluid is provided by blowing cooled air (Fig. 1, 78) into the mixing region (Fig. 1, area of 74, 78, 82 & 80) while preventing substantially all of the resulting mixture from passing through the seating surface (Fig. 1, 50).

**With regard to claim 47**, Inoue et al teach that at least a portion of the resulting mixture is exhausted (Fig. 1, f1) to ambient air.

**With regard to claim 48**, Inoue et al teach the step of re-circulating (Fig. 87(B), area 60) at least a portion of the removed resulting mixture back into the mixing region.

**With regard to claim 49**, Inoue et al teach that the pressure in the mixing region (Fig. 1, area of 74, 78, 82 & 80) can be maintained below or above the ambient pressure so that the mixture substantially all of the resulting mixture does not pass through the seating surface (Fig. 1, 50) immediately.

With regard to claim 50, Inoue et al teach that the cooled fluid is provided by blowing cooled air (Fig. 1, 78) into the mixing region while preventing substantially all of the resulting mixture from passing through the seating surface (Fig. 1, 50).

#### *Response to Arguments*

4. Applicants' arguments filed on 1/30/07 with respect to the Restriction and Claims 24-27 and 47-50 have been considered but they are not persuasive for the following reasons.

Applicants' assertions that Species IV-A, IV-B and IV-C are not mutually exclusive because they all use thermoelectric devices (TEDs) (Remarks, page 9, first 2 paragraphs) are traversed since the examiner did provide a distinct limitation for each of the Species in the Restriction Requirement, filed on 8/29/06. It appears that the applicants specifically read the Specification into the Species IV-A, IV-B and IV-C claiming a thermoelectric device, which actually can be an air conditioner, a thermocoupling system, a water-heat exchanger, a water-cooling exchanger, a ceramic heater, a filament heater, etc ... and these devices are completely distinct and exclusive from each other.

With regard to applicants' quest for Species Restriction requirement of 3 criteria A, B and C (Remarks, page 9, 3rd paragraph), applicants were invited to revisit MPEP 809.02 in order to have a proper understanding of Species Restriction vs Combination-SubCombination,

Process-Product, etc. ...

With respect to the IDS filed on 1/30/07, it fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed (although applicants claim to have them currently provided; Remarks, page 10, 1<sup>st</sup> paragraph); and all other information or that portion which caused it to be listed. It has been placed in the application file, but **some of the information referred to** therein has not been considered. Some of the NPL documents of the IDS filed on 12/2/04 are updated, reinitialized by the examiner as MPEP requires a date for each document.

Applicants urge that Inoue et al do not teach the limitation of “drawing ambient air through a seating surface of a transportation vehicle seat ...” (Remarks, page 10, 102(b) Rejection). Inoue et al do indeed teach the inlet/ suction port 60, which draws ambient air in the surrounding area, **including** the seating surface of a transportation vehicle seat.

It appears that applicants try to read the Specification into the claims and fail to recognize the scope of the claims when judged in view of Inoue et al. (See MPEP 2111 and *In re Geuns*, 26 USPQ 2<sup>nd</sup> 1057 (Fed. Cir. 1993)).

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicants'

disclosure.

**THIS ACTION IS MADE FINAL.** Applicants are reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tim Phan whose telephone number is 571-272-4568. The examiner can normally be reached on M & Tu, 6AM - 2PM, and W & Th, 9AM – 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571-272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**A. DEXTER TUGBANG**  
**PRIMARY EXAMINER**

Tim Phan  
Examiner  
Art Unit 3729

tp  
April 4, 2007